

TLC

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May 1, 1990

RECEIVED  
MAY - 2 1990  
Environment & Affairs Division

The Boeing Company  
Attn: J. R. Adelson, Manager  
and Planning Leased Property  
Org. 6-1000, Mail Stop 75-66  
Post Office Box 3707  
Seattle, Washington 98124

Re: United States v. The City of Seattle, et al.  
United States District Court Cause No. C90-395WD  
Tender of Defense

Dear Mr. Adelson:

Enclosed please find a copy of the above-referenced complaint which has been filed in the United States District Court, Western District of Washington at Seattle and which was served on the Mayor of The City of Seattle on March 21, 1990, together with a related notice of claim to The City of Seattle from the National Oceanic and Atmospheric Administration (NOAA). Also attached is the answer of The City of Seattle filed on April 10, 1990.

The complaint and notice of claim allege damages to natural resources caused by discharges of toxic substances from, among other things, property owned by The City of Seattle including the Georgetown Steam Plant. Based on the allegations in the complaint, natural resource damages, if any, were caused, in whole or in part, by toxic substances generated or released from The Boeing Company operations on property leased from The City of Seattle adjacent to the Georgetown Steam Plant flume.

Pursuant to the indemnification provisions of the leases and permits, The City of Seattle hereby tenders the defense of this suit to The Boeing Company.

The answer of co-defendant Metro is due May 11, 1990 pursuant to a stipulated extension. We anticipate that the United States will actively begin discovery at that time. Therefore, we would appreciate your acknowledgement prior to May 11, 1990 of receipt of this correspondence and acceptance of the tender, and that you will immediately undertake the defense of this action on behalf of The City of Seattle with respect to release of hazardous substances from property leased by Boeing from The City of Seattle.

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In the interim, The City of Seattle Law Department, or outside counsel on our behalf, will affirmatively and actively defend this action in federal court and will hold The Boeing Company responsible for all costs incurred in such defense as it relates to the allegation affecting the Georgetown Steam Plant. Should the Boeing Company refuse to accept tender, The City of Seattle anticipates either bringing The Boeing Company into the action as a third-party defendant or initiating a contribution action seeking recovery of damages awarded in the pending suit plus attorneys' fees and costs.

Attached to this tender letter are copies of the following agreements, leases, and permits between The City of Seattle and The Boeing Company regarding the property leased by Boeing. Exhibits A, B and C contain leases and related amendments for 4 parcels of property:

- Lease from the City of Seattle to Boeing Airplace Company executed May 13, 1953.
- Lease from the City of Seattle to Boeing Airplane Company executed September 28, 1955.
- Agreement and amendment of leases between the City of Seattle and Boeing Airplane Company executed May 16, 1972.

Exhibits 1 through 4 are temporary permits issued to The Boeing Company.

1. Permit to: Boeing Co.  
Purpose: Fire Drill Exercises to Train Firefighters  
Executed: 12/13/61, expired: 10/24/62
2. Permit to: Boeing Co.  
Purpose: Discharge of Uncontaminated Water into Steam Plant Flume.  
Executed: 3/19/69, cancelled 7/30/87.
3. Permit to: Boeing Co.  
Purpose: Temporary Bridge over Flume. Requested 10/10/78.
4. Permit to: Boeing Co.  
Purpose: Methylene Chloride Spill Containment Area  
Executed: 11/23/82.

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The indemnification provisions of each agreement have been highlighted. This list includes only leases and permits located to date. This tender is intended to cover all such agreements between The City of Seattle and The Boeing Company which relate to property near or adjacent to the Georgetown Steam Plant flume.

If you need additional information, do not hesitate to call me at (206) 684-3119.

Very truly yours,

MARK H. SIDRAN  
City Attorney

By:



MARY KAY DOHERTY  
Assistant City Attorney

MKD:hh

Enclosure

cc: Randall W. Hardy, Superintendent of City Light Department  
Paul Carlson, Boeing Legal Department

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